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PART II—Section 4

Statutory Rules and Orders issued by the Ministry of Defence

MINISTRY OF DEFENCE

S.R.O. 205, dated 12th July 1961.—In exercise of the powers conferred by section 191 of the Army Act, 1950 (46 of 1950) and of all other powers enabling it in this behalf, the Central Government hereby makes the following rules to amend the Army Rules, 1954, namely:—

1. These rules may be called the Army (First Amendment) Rules, 1961.
2. In the Army Rules, 1954,

(i) for rule 14, the following rule shall be substituted, namely:—

"14. Termination of service by the Central Government on account of misconduct.—(1) When it is proposed to terminate the service of an officer under section 19 on account of misconduct, he shall be given an opportunity to show cause in the manner specified in sub-rule (2) against such action:

Provided that this sub-rule shall not apply—

- (a) where the service is terminated on the ground of conduct which has led to his conviction by a criminal court; or
- (b) where the Central Government is satisfied that for reasons, to be recorded in writing, it is not expedient or reasonably practicable to give to the officer an opportunity of showing cause.

(2) When after considering the reports on an officer's misconduct, the Central Government or the Chief of the Army Staff is satisfied that the trial of the officer by a court-martial is inexpedient or impracticable, but is of the opinion that the further retention of the said officer in the service is undesirable, the Chief of the Army Staff shall so inform the officer together with all reports adverse to him and he shall be called upon to submit, in writing, his explanation and defence:

Provided that the Chief of the Army Staff may withhold from disclosure any such report or portion thereof if, in his opinion, its disclosure is not in the interest of the Security of the State.

In the event of the explanation of the officer being considered unsatisfactory by the Chief of the Army Staff, or when so directed by the Central Government, the case shall be submitted to the Central Government with the officer's defence and the recommendation of the Chief of the Army Staff as to the termination of the officer's service in the manner specified in sub-rule (4).

(3) Where, upon the conviction of an officer by a criminal court, the Central Government or the Chief of the Army Staff considers that the conduct of the officer which has led to his conviction renders his further retention in service undesirable, a certified copy of the judgment of the criminal court convicting him shall be submitted to the Central Government with the recommendation of the Chief of the Army Staff as to the termination of the officer's service in the manner specified in sub-rule (4).

(4) When submitting a case to the Central Government under the provisions of sub-rule (2) or sub-rule (3), the Chief of the Army Staff shall make his recommendation whether the officer's service should be terminated, and if so, whether the officer should be—

- (a) dismissed from the service; or
- (b) removed from the service; or
- (c) called upon to retire; or
- (d) called upon to resign.

(5) The Central Government after considering the reports and the officer's defence, if any, or the judgement of the criminal court, as the case may be, and the recommendation of the Chief of the Army Staff, may dismiss or remove the officer with or without pension or call upon him to retire or resign, and on his refusing to do so, the officer may be compulsorily retired or removed from the service on pension or gratuity, if any, admissible to him".

(ii) for rule 15, the following rule shall be substituted, namely:—

"15. Termination of Service by the Central Government on grounds other than misconduct.—(1) When the Chief of the Army Staff is satisfied that an officer is unfit to be retained in the service due to inefficiency, or physical disability, the officer—

- (a) shall be so informed,
- (b) shall be furnished with the particulars of all matters adverse to him, and
- (c) shall be called upon to urge any reasons he may wish to put forward in favour of his retention in the service;

Provided that clauses (a), (b) and (c) shall not apply if the Central Government is satisfied that for reasons, to be recorded by it in writing, it is not expedient or reasonably practicable to comply with the provisions thereof:

Provided further that the Chief of the Army Staff may not furnish to the officer any matter adverse to him, if, in his opinion, it is not in the interest of the security of the State to do so.

(2) In the event of the explanation being considered by the Chief of the Army Staff unsatisfactory, the matter shall be submitted to the Central Government for orders, together with the officer's explanation and the recommendation of the Chief of the Army Staff as to whether the officer should be—

- (a) called upon to retire; or
- (b) called upon to resign.

(3) The Central Government after considering the reports the explanations, if any, of the officer and the recommendation of the Chief of the Army Staff, may call upon the officer to retire or resign, and on his refusing to do so, the officer may be compulsorily retired or removed from the service on pension or gratuity, if any, admissible to him".

(iii) after rule, 15, the following rule shall be inserted, namely:—

"15-A. Release on medical grounds.

(1) An officer who is found by a Medical Board to be permanently unfit for any form of military service may be released from the service in accordance with the procedure laid down in this rule.

(2) The President of the Medical Board shall, immediately after the Medical Board has come to the conclusion that the officer is permanently unfit for any form of military service, issue a notice specifying the nature of the disease or disability he is suffering from and the finding of the Medical Board and also intimating him that in view of the finding he may be released from the service: every such notice shall also specify that the officer may, within fifteen days of the date of receipt of the notice, prefer a petition against the finding of the Medical Board to the Chief of the Army Staff through the President of the Medical Board;

Provided that where in the opinion of the medical board the officer is suffering from a mental disease and it is either unsafe to communicate the nature of the disease or disability to the officer or the officer is unfit to look after his interests, the nature of the disease or disability shall be communicated to the officer's next-of-kin who shall have the like right to petition.

(3) If no petition is preferred within the time specified in sub-rule (2), the officer may be released from the service by an order to that effect by the Chief of the Army Staff.

(4) If a petition is preferred within the time specified in sub-rule (2), it shall be forwarded to the Central Government together with the records thereof and the recommendation of the Chief of the Army Staff. The Central Government may, after considering the petition and the recommendation of the Chief of the Army Staff, pass such order as it deems fit."

(iv) for rule 16, the following rule shall be substituted, namely:—

"16. **Release.**—A person subject to the Act may be released from the service in accordance with the Release Regulations for the Army or in accordance with any other regulations, instructions or orders made in that behalf."

(v) for rule 17, the following rule shall be substituted namely:—

"17. **Dismissal or removal by Chief of the Army Staff and by other officers.**—Save in the case where a person is dismissed or removed from service on the ground of conduct which has led to his conviction by a criminal court or a court-martial, no person shall be dismissed or removed under sub-section (1) or sub-section (3) of section 20, unless he has been informed of the particulars of the cause of action against him and allowed reasonable time to state in writing any reasons he may have to urge against his dismissal or removal from the service;

Provided that if in the opinion of the officer competent to order the dismissal or removal, it is not expedient or reasonably practicable to comply with the provisions of this rule, he may, after certifying to that effect, order the dismissal or removal without complying with the procedure set out in this rule. All cases of dismissal or removal under this rule where the prescribed procedure has not been complied with shall be reported to the central Government".

[File No. F. 23(1)/58/D(AG-I).]

J. N. GOYAL, Dy. Secy.

